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Date of Deposit: April 16, 2007

BRINKS HOFER GILSON &LIONE

Examiner: Patricia A. Leith

Art Unit: 1655

#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Brovelli, et al.

Appln. No.: 10/774,092

Filed: February 6, 2004

For: METHOD OF AUGMENTING THE

**IMMUNE-MODULATORY ACTIVITY OF** 

STANDARDIZED ECHINACEA

**PREPARATIONS** 

Attorney Docket No: 3086/1734 (AM1150)

Mail Stop RCE Commissioner for Patents U.S. Patent and Trademark Office P. O. Box 1450 Alexandria, VA 22313-1450

 $\boxtimes$ 

#### REQUEST FOR CONTINUED EXAMINATION (37 C.F.R. § 1.114)

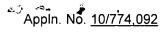
Sir:

Applicant(s) requests continued examination of the above-identified application under 37 C.F.R. §1.114.

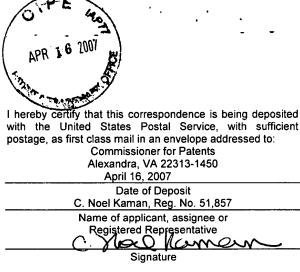
$\boxtimes$	Submission under 37 CFR 1.114 (check at least one of the following):				
	$\boxtimes$	Previously submitted:			
			Applicant(s) requests nonentry of any previously-filed unentered amendments.		
		$\boxtimes$	Please enter and consider the Amendment After Final Under 37 C.F.R. §1.116 previously filed on <u>9 February 2007</u> , a copy of which is included herewith.		
			Consider the arguments in the Appeal Brief or Reply Brief previously filed on		
			<del></del>		
			Other:		
	$\boxtimes$	Attached is/are:			
			An Information Disclosure Statement		
			An Amendment to the written description, claims, or drawings		

New Arguments and/or New Evidence in support of Patentability

Other: Communication Regarding Request for Continued Examination



	Request for suspension of action:				
	37 C	licant(s) hereby request suspension of action on the above-identified application under C.F.R. §1.103(c) for a period of months. (Period of suspension shall not exceed onths; requires Processing Fee under 37 C.F.R. §1.17(i)).			
	Small Entity Status:				
		Applicant hereby asserts entitlement to claim small entity status under 37 CFR §§ 1.9 and 1.27.			
		A small entity statement or assertion of entitlement to claim small entity status was filed in prior application no/ and such status is still proper and desired.			
		Is no longer desired.			
$\boxtimes$	Applicant(s) calculate the following fees to be due in connection with this Request:				
	$\boxtimes$	A Request fee of \$790.00 under 37 C.F.R. §1.17(e).			
		A suspension processing fee of \$ under 37 C.F.R. §1.17(i).			
		An additional filing fee of \$ under 37 C.F.R. §1.16 ( additional independent claims and/or additional total claims).			
	$\boxtimes$	An extension fee of \$120 under 37 C.F.R. §1.17(a) for a 1-month extension of time.			
$\boxtimes$	Fee payment to cover the above-enumerated fee(s):				
		A check in the amount of \$ is enclosed.			
	$\boxtimes$	Please charge Deposit Account No. 23-1925 (BRINKS HOFER GILSON & LIONE) in the amount of \$910.00. A copy of this Request is enclosed for this purpose.			
		A payment by credit card in the amount of \$ (Form PTO-2038 is attached).			
		The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925 (BRINKS HOFER GILSON & LIONE). A copy of this Request is enclosed for this purpose.			
		Respectfully submitted,			
April	16, 2	c. Now Kuman			
Date		C. Noel Kaman (Reg. No. 51,857)			



April 16, 2007 Date of Signature

> Our Case No. 3086-1734 AM1150

#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)
Brovelli et al.	)
Serial No. 10/774,092	Examiner Leith
Filing Date: February 6, 2004	<ul><li>) Group Art Unit No. 1655</li><li>)</li></ul>
For: METHOD OF AUGMENTING THE IMMUNE-MODULATORY ACTIVITY OF STANDARDIZED ECHINACEA PREPARATIONS	) ) )

#### COMMUNICATION REGARDING REQUEST FOR CONTINUED EXAMINATION

Mail Stop - RCE Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Dear Sir:

Applicants have submitted herewith a Request for Continued Examination requesting continued examination of the above-identified application in view of the Amendment and Response filed February 9, 2007, a copy of which is included herewith for the Examiner's convenience. Applicants note that in the Advisory action mailed March 30, 2007, it is indicated that the period for reply expires 3 months from the mailing date of the final rejection. Applicants believe this is in error as Applicants submitted an Amendment and Request for Reconsideration within 2 months of the mail date of the

Appl. No. 10/774,092 Request for Continued Examination mailed April 16, 2007 Reply to Office Action mailed December 14, 2006

final rejection. MPEP 706.07(f). Specifically, the final rejection was mailed December 14, 2006 and Applicants' Amendment and Request for Reconsideration was mailed February 6, 2007 and filed February 9, 2007, five days before the two-month date of February 14, 2007. Applicants have included a copy of the Transaction History for this application evidencing these dates.

Thus, for purposes of calculating extension fees, Applicants respectfully submit that a petition for 1-month extension of time is due and that such an extension should cover any reply filed up April 30, 2007, the date that is 1-month after the mail date of the Advisory action. A petition for 1-month extension of time is filed herewith. In case any of Applicants' calculations are in error, Applicants have noted in the Request for Continued Examination that the Commissioner may charge payment of any additional filing fees to Deposit Account No. 23-1925.

Respectfully submitted,

C. Noel Kaman

Registration No. 51,857 Attorney for Applicant

BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, ILLINOIS 60610 (312) 321-4200

10/774,092	Method of augmenting the immune-modulatory activity of standardized Echinacea preparations	04-16- 2007::10:31:28				
Transaction History						
Date	Transaction Description					
03-30-2007	Mail Advisory Action (PTOL - 303)					
03-29-2007	Advisory Action (PTOL-303)					
03-02-2007	Date Forwarded to Examiner					
02-09-2007	Amendment after Final Rejection					
01-25-2007	Correspondence Address Change					
01-25-2007	Change in Power of Attorney (May Include Associate POA)					
12-14-2006	Mail Final Rejection (PTOL - 326)					
12-11-2006	Final Rejection					
09-28-2006	Date Forwarded to Examiner					
09-22-2006	Response after Non-Final Action					
06-19-2006	Mail Non-Final Rejection					
06-12-2006	Non-Final Rejection					
04-21-2004	Information Disclosure Statement considered					
05-08-2006	Date Forwarded to Examiner					
05-02-2006	Response to Election / Restriction Filed					
04-07-2006	Mail Restriction Requirement					
04-03-2006	Requirement for Restriction / Election					
02-21-2006	Miscellaneous Incoming Letter					
06-28-2005	Case Docketed to Examiner in GAU					
02-07-2005	Rescind Nonpublication Request for Pre Grant Publication					
06-17-2004	IFW TSS Processing by Tech Center Complete					
06-17-2004	Case Docketed to Examiner in GAU					
04-21-2004	Reference capture on IDS					
04-21-2004	Information Disclosure Statement (IDS) Filed					
05-06-2004	Application Return from OIPE					
05-06-2004	Application Return TO OIPE					
05-05-2004	Application Return from OIPE					
05-06-2004	Application Is Now Complete					
02-06-2004	PGPubs nonPub Request					
05-06-2004	Pre-Exam Office Action Withdrawn					
05-05-2004	Application Return TO OIPE	•				
05-05-2004	Application Dispatched from OIPE					
05-06-2004	Application Is Now Complete					
03-17-2004	Cleared by OIPE CSR					
02-23-2004	IFW Scan & PACR Auto Security Review					
02-06-2004	Initial Exam Team nn					

### **Close Window**

Serial No. Applicant: Client/Matter No.;

10/774,092

BROVELLI, ET AL. 3086/1734

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Please acknowledge receipt of the below identified:

Items Mailed: Transmittal:Letter (in duplicate); Amendment and Request for Reconsideration; and a return receipt postcard.

# BRINKS HOFER GILSON & LIONE By: CNK, Reg. No. 51,857 Date of Mailing: February 6, 2007

Applicant:

BROVELLI, ET AL.

Serial No .:

10/774,092

Client/Matter:

3086/1734 (AM1150)

Items Mailed:

Transmittal Letter (in duplicate); Amendment and

Request for Reconsideration, and a return receipt postcard.

**DUE DATE: 03/14/07** 

Date of Mailing:

February 6, 2007

Serial No. 10/774,092
Applicant: BROVELLI, ET AL.
Client/Matter No.: 3086/1734

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

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**BRINKS HOFER GILSON & LIONE** 

By: CNK, Reg. No. 51,857 Date of Mailing: February 6, 2007